

Racing for Regulatory Gold

BY A. BARTON HINKLE

Speaking before a joint session of Congress a while back, President Obama generously conceded that “some rules and regulations ... put an unnecessary burden on businesses.” But, he insisted, “We shouldn’t be in a race to the bottom, where we try to offer the cheapest labor and the worst pollution standards.” Regulation-wise, he said, “America should be in a race to the top. And I believe that’s a race we can win.”

The president is right. There’s no reason America cannot out-regulate the rest of the world if we all put our shoulders to the wheel and our noses to the grindstone.

The global competition is intense, but the United States is no slouch in the regulatory Olympics. And the current administration has been doing its part in the quest for the gold. Consider this gem courtesy of the Affordable Care Act:

The Centers for Medicare and Medicaid Services have been putting the finishing touches on the ICD-10, a new coding system for medical billing. Unlike the shockingly inadequate ICD-9, which can distinguish among only 13,000 different types of injury, the ICD-10 lists 68,000. They include: hurt at the opera (Y92253); walked into a lamppost (W2202XA); and, for potential Darwin Award winners, walked into a lamppost—subsequent encounter (W2202XD). It even covers different eventualities involving flaming water skis.

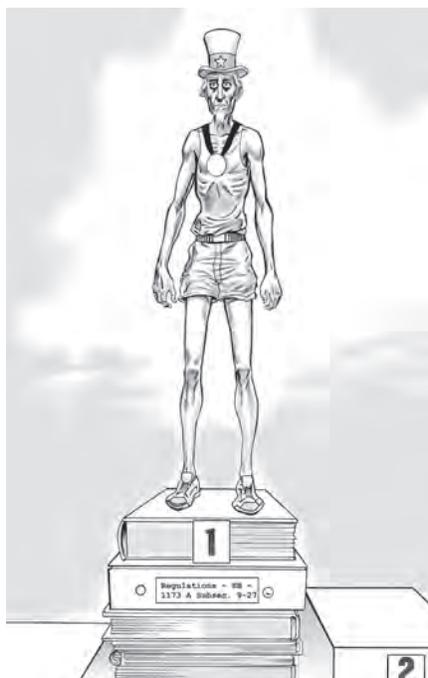
A few ignorant rubes, like those at the American Medical Association, think this goes too far. That’s only natural. As expert Holly Cassano told *PBS NewsHour*, “Initially there was a lot of fear [surrounding ICD-10], as with anything new.” But you should have no trouble navigating the

A. BARTON HINKLE is senior editorial writer and a columnist for the *Richmond Times Dispatch*. He received the 2004 Eugene C. Pulliam Fellowship for Editorial Writing.

more complex system, she says, if you are “armed with the proper coding tools.” Did I mention that Cassano runs a medical-coding consulting service?

Besides, in the regulatory world, no detail is too small to overlook. Jon Gabriel of FreedomWorks draws attention to federal standards governing pickles, which run to 25 pages and clarify questions such as the meaning of “curved pickles” (“whole pickles that are curved at an angle of 35 to 60 degrees when measured as illustrated by the following [diagram]”) and “diameter in whole style” (“the shortest diameter measured transversely to the longitudinal axis at the greatest circumference of the pickle”).

None of this would get the United States beyond the Regulatory Olympics tryout stage, however, if regulations were left solely to Washington to promulgate. Ours is a federal system, after all, which demands that state and local governments do their part. That’s why it was heartening to read in the *Wall Street Journal* recently about Eustace Conway, who



thinks he can shirk his civic duty by hiding out in the woods.

Conway runs a business teaching people to live off the land. His Turtle Island preserve came to the attention of Watauga County, N.C., regulators thanks to an anonymous tip from a patriotic citizen. When they descended on Turtle Island, they were shocked at what they found: The buildings had been constructed “with lumber that isn’t ‘grade-marked,’ meaning it doesn’t specify the mill where it was produced.” (Conway cut down the trees himself.) The cabins lacked sprinklers. And Conway’s outdoor kitchen? “It is, in fact, outdoors,” according to the 78-page report by county officials, who shut him down.

If regulatory zeal has climbed so far into the Carolina mountains, then we should not be surprised at the depths it has reached in other parts of the country. Philadelphia wants bloggers to buy business licenses. New York’s Mayor Michael Bloomberg is on a well-known crusade against soda, baby formula, guns, and anything else he can think of. Hazelwood, Mo., went after two Girl Scouts for selling cookies on their own lawn. Holland, Mich., officials told 13-year-old Nathan Duszynski his hot-dog cart violated zoning laws designed to protect his competitors. Officials from Georgia to Iowa have shut down children’s lemonade stands for lacking government permission slips.

And if you think it’s hard to start a business, just try closing one down. If you want to hold a clearance sale in Wisconsin, the (appropriately nicknamed) Badger State may require you to obtain a going-out-of-business license first. Don’t blame that on Wisconsin’s historically Progressive politics, though: Texas also requires a going-out-of-business permit.

The Economist, which estimates that regulations add business costs of \$10,585 per employee in the United States, laments that “red tape in America is no laughing matter.” Don’t tell that to the president, though. “Feel a cold coming on?” he joked last fall. “Take two tax cuts, roll back some regulations, and call us in the morning.”

Forget Olympic gold—that’s comedy gold right there. **R**